84-118

No. ——

IN THE

Supreme Court of the United States

OCTOBER TERM, 1983

WILLIAM AUGUSTUS BROOME,
JAMES LEE SPOONE,
BILLIE K. SPOONE,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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QUESTIONS PRESENTED FOR REVIEW

1. The Fourth Circuit Court of Appeals has rendered a decision in conflict with the decision of another federal court of appeals in that it held that an instruction that jurors could discuss the case among themselves was effectually harmless error, a decision in direct conflict with the Eighth Circuit Court of Appeal's holding in *Winebrenner v. United States*, 147 F.2d 322 (8th Cir. 1945).

LIST OF PARTIES

All parties are contained in the caption of the case.

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TABLE OF AUTHORITIES

IN THE

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OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS DELIVERED IN THE COURTS BELOW

A copy of the Judgment and Commitment of the United States District Court for the District of South Carolina is included in the Appendix at A1-A3. A copy of the published opinion of the Fourth Circuit Court of Appeals is included in the Appendix at B1-B7.

GROUNDS ON WHICH JURISDICTION OF THE COURT IS INVOLVED

The defendants were convicted of conspiracy, interstate transportation of stolen motor vehicles and disposal of stolen motor vehicles on October 2, 1980, and

sentenced on November 25, 1980. In a published opinion of the Fourth Circuit Court of Appeals, the Court affirmed the conviction on April 16, 1984. Jurisdiction of the Supreme Court is involved under Title 28, United States Code, § 1254(1) (1976). The petitioner avers that the Court of Appeals has decided a federal question in a way that conflicts with applicable decisions of this Court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Title 18, United States Code, Section 2312.

Title 18, United States Code, Section 2313.

STATEMENT OF THE CASE

The defendants, William Augustus Broome, James Lee Spoone and Billie K. Spoone, were indicted with William Harold Hall and Peter Lee Cook on July 9, 1980. The Indictment charged in Count One that William Harold Hall, James Lee Spoone, William Augustus Broome, Peter Lee Cook and Billie K. Spoone conspired to transport in interstate commerce stolen motor vehicles and to knowingly dispose of stolen motor vehicles which had been transported in interstate commerce. Count Two charged James Lee Spoone, William Augustus Broome, Billie K. Spoone and Peter Lee Cook with harboring a fugitive, William Harold Hall, who was also a co-defendant. All of the defendants were charged in Counts Three through Sixteen for various violations Title 18, United States Code, Section 2312, interstate transportation of stolen motor vehicles and Title 18, United States Code, Section 2313 knowingly disposing of stolen motor vehicles which had been transported in interstate commerce. Prior to trial, Peter Lee Cook and William Harold Hall pleaded guilty. William Harold Hall testified as a government witness at trial. The case was called for trial before a jury on September 22, 1980. The trial continued until a verdict was returned on October 2, 1980. The defendant

James Lee Spoone was convicted on all counts, One through Sixteen. The defendant William Augustus Broome was found guilty as to Counts One, Three and Four, conspiracy and the substantive count of transporting a stolen motor vehicle in interstate commerce and knowingly disposing of stolen motor vehicle that had been transported in interstate commerce. The defendant Billie K. Spoone was convicted of conspiracy and four counts of knowingly disposing of a stolen motor vehicle that had been transported in interstate commerce. The case was called for sentencing on November 25, 1980. The defendant James Lee Spoone was sentenced to four years on each count, all sentences to run concurrently. The defendant William Augustus Broome was sentenced to two years on Count One, Three and Four, all sentences to run concurrently. The defendant Billie K. Spoone was sentenced to two years on all counts concurrently provided the execution of the sentence was suspended on five years probation with a special condition she reside for three months in a halfway house for women. All three defendants that went to trial appealed their convictions to the Fourth Circuit Court of Appeals, which affirmed the convictions in a published opinion filed April 16, 1984.

The Government's case at trial was in large measure based upon the testimony of the co-defendant, William Harold Hall. Prior to trial Hall pleaded guilty pursuant to a plea agreement, testified about his involvement in the scheme and attempted to incriminate his co-defendant's. Hall painted a picture which involved all the defendants in an overall scheme. The cars would be stolen from various car lots throughout South Carolina, North Carolina and Georgia, either by stealing keys from the car lots or by test driving the cars and failing to return them. Wrecked cars would be purchased from various salvage yards and the VIN numbers from the wrecked cars would be traded for those of the stolen cars. The stolen cars would thereafter be sold under the title of the

wrecked cars, but with the wrecked cars VIN number on the stolen cars. To corroborate Mr. Hall's testimony, the Government presented highway department records showing the chain of title, the testimony of the true owners of the stolen vehicles, and the testimony of the purchasers of the stolen vehicles.

On the opening day of the trial, the trial judge gave preliminary instructions to the jury that consumed some six pages of transcript testimony. Near the end of these instructions, the trial judge recited the following:

> "Since this will be a rather extended case, it is vital that you remember and abide by these instructions. You may hear a part of the case and you may be convinced at that time, or at some time or another as to a true fact. But I want you to understand that it would be premature, it would be improper for you, until the case is fully tried, to attempt to arrive at a verdict or any judgment about the facts in this case. So even though you may discuss the case among yourselves at breaks and at other times, do not try to arrive at any judgment or decision about the facts in this case until the case is completely tried. . ."

Immediately following these instructions the Government began five days of testimony that included approximately forty witnesses. The entire trial ran two weeks and involved three defendants.

The Fourth Circuit Court of Appeals dealt with this issue by simply stating, "None of the appellant's objected to this instruction; consequently, the issue of its propriety was not preserved for appeal." However, in a footnote, the Fourth Circuit observed that had the appellants objected at trial, it would have followed its holding in *United States v. Lemus*, 542 F.2d 222 (4th Cir. 1976) that such an instruction would be only harmless error.

ARGUMENT

I. THE FOURTH CIRCUIT COURT OF APPEALS HAS RENDERED A DECISION IN CONFLICT WITH THE DECISION OF ANOTHER FEDERAL COURT OF APPEALS IN THAT IT HELD THAT AN INSTRUCTION THAT JURORS COULD DISCUSS THE CASE AMONG THEMSELVES WAS EFFECTUALLY HARMLESS ERROR, A DECISION IN DIRECT CONFLICT WITH THE EIGHTH CIRCUIT COURT OF APPEAL'S HOLDING IN *WINEBRENNER v. UNITED STATES*, 147 F.2d 322 (8th Cir. 1945).

Defendants Broome, James Spoone, and Billie Spoone contend that the District Judge's preliminary instructions allowing jurors to discuss the case during the course of the trial denied them a fair trial. The Court below, relying on a recent Fourth Circuit decision on this point, found that this instruction was merely harmless error.

The rule against allowing jurors to discuss a case before all the evidence has been submitted has long been recognized by State Courts and by Federal Courts as a basic rule that insures a defendant's right to a fair trial. This opinion was strongly reiterated in the Eighth Circuit opinion in *Winebrenner v. United States*, 147 F.2d 322 (8th Cir. 1945). The *Winebrenner* Court recognized that when jurors are allowed to discuss a case among themselves during the course of a trial, they are allowed to give premature consideration to the evidence. That Court also noted that allowing the jury to discuss the case will encourage the expression of opinions despite the judge's cautions against arriving at a judgment or decision before the case is completely tried. Finally, this erroneous jury instruction violates the principle that an accused is entitled to be heard before he is condemned.

The *Winebrenner* decision is cited in a more recent Fourth Circuit decision, *United States v. Lemus*, 542

F.2d 222 (4th Cir. 1976). In that case the Appellate Court held that allowing juror discussion during a trial was harmless error. The Fourth Circuit distinguished the *Lemus* trial from the Winebrenner trial by noting that *Lemus* was a short trial involving only one defendant, whereas the *Winebrenner* jury was faced with a lengthy trial involving several defendants each of whom was charged with numerous and complex crimes.

In the present case, the Fourth Circuit refused to acknowledge the *Winebrenner* rationale, even though this case parallels the complexities of the *Winebrenner* trial. Therefore, the decision of the Fourth Circuit in this case is in direct conflict with the holding of the Eighth Circuit in *Winebrenner*.

Appellants believe that the obvious variance in the rulings of the Eighth Circuit and the Fourth Circuit creates a serious discrepancy in Federal trial procedure that should not be allowed to continue. The long standing rule against juror discussion during a trial should not be ignored in some circuits as "harmless" error while strictly applied in others; nor should the rule be eroded in a piecemeal fashion under the whim of "judicial discretion". Appellants now ask this Court to hear argument on this issue and resolve the split in Circuit Court decisions.

CONCLUSION

The Court below has decided an issue in a way that conflicts with the applicable decision of another court of appeals. Petitioners request this Court issue a Writ of Certiorari to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit.

Respectfully submitted,

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Billie K. Spoone
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Room 1372
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APPENDICES

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 81-5012

UNITED STATES OF AMERICA,
Appellee,

v.

WILLIAM AUGUSTUS BROOME,
Appellant.

No. 81-5017

UNITED STATES OF AMERICA,
Appellee,

v.

JAMES LEE SPOONE,
Appellant.

No. 81-5018

UNITED STATES OF AMERICA,
Appellee,

v.

BILLIE K. SPOONE,
Appellant.

Appeals from the United States District Court
for the District of South Carolina, at Columbia
Charles E. Simons, Jr., Chief District Judge

(CR 80-00153-03; 02; 05)

Argued: January 13, 1984 Decided: April 16, 1984

Before WIDENER and HALL, Circuit Judges; and BUTZNER, Senior Circuit Judge.

Stanford E. Lacy for Appellant William Augustus Broome; Amy C. Sutherland for Appellant James Lee Spoone; John F. Hardaway for Appellant Billie K. Spoone; Marvin J. Caughman, Assistant United States Attorney (Henry Dargan McMaster, United States Attorney, Deborah L. Cochelin, Third Year Law Student on brief) for Appellee.

HALL, Circuit Judge:

James Spoone, his wife, Billie Spoone, and Willie Broome appeal from their convictions by a jury of conspiracy to transport and sell stolen motor vehicles in interstate commerce in violation of 18 U.S.C. § 371 and selling stolen vehicles in violation of 18 U.S.C. § 2313. James Spoone and William Broome also appeal from their conviction of transporting stolen vehicles in violation of 18 U.S.C. § 2312. Additionally, James Spoone appeals from his conviction of harboring a fugitive in violation of 18 U.S.C. § 1071. We affirm.

I.

On appeal, Billie Spoone contends that the admission of certain testimony by William Hall, the Government's witness, violated her marital privilege protecting confidential communications between husband and wife. We disagree.

Hall testified that James Spoone called Billie Spoone by telephone and that after that call, James Spoone revealed to Hall the subject matter of the statements

made to him by his wife. These statements were about the appellants' car theft business. Hall, over Billie Spoone's objection, was allowed to testify to the contents of the Spoones' conversation.

In ruling on whether to permit Hall to testify as to Billie Spoone's statements, the district judge was forced to choose between two conflicting federal rules. The first of these rules is the marital privilege protecting confidential communications between husband and wife. *See Blau v. United States*, 340 U.S. 332 (1951); Fed. R. Evid. 501. This privilege reaches those marital communications made in confidence and intended to be confidential. 340 U.S. at 332.

The second federal rule the district court considered in ruling on the admissibility of Billie Spoone's statements was the coconspirator exception to the hearsay rule. Fed. R. Evid. 801(d)(2)(E). Pursuant to that rule, if a conspiracy can be proven then any out-of-court statement made by a coconspirator during the course and in furtherance of the conspiracy may be used against any other conspirator. Here, the district judge found that there was sufficient evidence from which a jury could conclude that a conspiracy existed and that the Spoones were members of the conspiracy,[1] and consequently admitted Billie Spoone's statements pursuant to the coconspirator exception to the hearsay rule.

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[1] On appeal, Billie Spoone disputes this finding with respect to her conviction on the ground that the case lacked proof of her knowledge that the conspiracy existed. We disagree. There was a clear demonstration of an illicit association by a fair preponderance of independent non-hearsay evidence. *See* United States v. Jones, 542 F.2d 186 (4th Cir.), *cert. denied*, 426 U.S. 922 (1976). The evidence presented indicated that Billie Spoone lived with the other defendants, was aware that they took frequent trips and would arrive back home late at night with stolen cars, was aware that stolen cars were worked on at her home, drove a stolen car which she sought to have disguised, and allowed the other defendants to use her notary seal in selling the cars.

The question now before this Court is whether the district judge erred in finding the marital privilege inapplicable where it conflicted with the coconspirator exception to the hearsay rule. In *United States v. Mendoza*, 574 F.2d 1373 (1978), the Fifth Circuit explicitly recognized the propriety of such a finding:

> [This ruling] strikes the proper balance between domestic tranquility and the public interest therein, on the one hand, and the revelation of truth and the attainment of justice, which also are in the public interest, on the other. Therefore, we hold that conversations between husband and wife about crimes in which they are jointly participating when the conversations occur are not marital communications for the purpose of the marital privilege, and thus do not fall within the privilege's protection of confidential marital communications.

Id. at 1381.[2] We agree with the Fifth Circuit's reasoning, and hold that where marital communications have to do with the commission of a crime in which both spouses are participants, the conversation does not fall within the marital privilege and, consequently, does not limit the applicability of the coconspirator exception to the hearsay rule. Accordingly, Billie Spoone's contention is without merit.

II.

Broome alleges that: (1) the district judge's description of Hall's plea bargain unduly influenced the jury to believe that Hall had testified truthfully; (2) the district

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[2] *See also* United States v. Kahn, 471 F.2d 191 (7th Cir. 1972), *cert. denied*, 411 U.S. 986 (1973), *rev'd on other grounds*, 415 U.S. 143 (1974) ("Society has an interest in protecting the privacy of marriage because invasion of the privacy endangers the family relationship," but " '[w]here both spouses are substantial participants in patently illegal activity, even the most expansive of the marriage privileges should not prevent testimony.' " *Id.* at 194 (quoting Note, *Future Crime or Tort Exception to Communications Privilege*, 77 Harv. L. Rev. 730, 734 (1964)).

judge erred by failing to grant Broome a separate trial; and (3) there was insufficient evidence to find Broome guilty beyond a reasonable doubt. We disagree with each of these allegations.

Broome's claim of prejudice from the trial judge's description of Hall's plea bargain lacks merit. In instructing the jury, the district judge stated that Hall had plea-bargained with the Government. The judge observed that one of the Government's requirements in the plea bargain was that Hall would "testif[y] truthfully." He then explained that it was up to the jurors to determine whether Hall should be believed. This brief and accurate description of Hall's plea bargain could not have unduly influenced the jury to believe that Hall had testified truthfully.

Broome's allegation that he suffered substantial prejudice from being denied a separate trial is unsupported by any specific showing of prejudice. Broome argues that because he called Peter Spoone, his codefendants' son, as a witness, he risked having the son shade his testimony to protect his parents. This possibility would have existed, however, even if separate trials had been ordered.

Finally, Broome's contention that there was insufficient evidence of guilt is untenable. The evidence presented at trial indicated that Broome concocted Hall's alias, bought wrecked cars for their vehicle identification numbers, picked up salvage titles for cars, disguised stolen cars, and was singularly instrumental in running the stolen car business. This evidence was clearly sufficient to find him guilty beyond a reasonable doubt.

III.

Broome, James Spoone, and Billie Spoone allege that the district judge's preliminary instructions concerning discussion among the jurors denied appellants their right to a fair trial. This contention lacks merit.

On the opening day of this case, the district judge stated to the jury "[s]o even though you may discuss the case among yourselves at breaks and at other times, do not try to arrive at any judgment or decision about the facts in this case until the case is completely tried. . . ." None of the appellants objected to this instruction; consequently, the issue of its propriety was not preserved for appeal.[3]

IV.

After a careful review of the record, we have determined that appellants' additional challenges to the judgment below are also without merit. Accordingly, the convictions are affirmed.

AFFIRMED.

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[3] Furthermore, in United States v. Lemus, 542 F.2d 222 (4th Cir. 1976), this Court held that a trial judge who twice instructed the jurors that it would be proper for them to discuss the case during recess committed only harmless error. Had appellants objected at trial, there would have been no reason to have held differently in this case.

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Docket No. 80-153

UNITED STATES OF AMERICA

vs.

WILLIAM AUGUSTUS BROOME,
Defendant

[Filed Nov. 20, 1980]

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date— November 20, 1980

——— WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XXX WITH COUNSEL Stanford E. Lacy, Esq. (retained)

PLEA

——— GUILTY, and the court being satisfied that there is a factual basis for the plea,

——— NOLO CONTENDERE,

——— NOT GUILTY

FINDING & JUDGMENT

There being a verdict of

——— NOT GUILTY. Defendant is discharged

XX GUILTY. returned 10-2-80, as to Cts. 1, 3, & 4 of the Indictment

Defendant has been convicted as charged of the offense(s) of violation of Title 18, U.S. Code, Sections 371, 2312, 2313 & 2

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on each of Counts 1, 3 and 4, said sentences to run concurrently with each other.

IT IS FURTHER ORDERED that Counts 2, 5, 6, 7, 8, 9, 10, and 11 of the Indictment are hereby dismissed.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a

warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk Deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

Signed by

XX U.S. District Judge

——— U.S. Magistrate

/s/ Charles E. Simons, Jr.
CHARLES E. SIMONS, JR.

Date 11-20-80

B4

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Docket No. 80-153

UNITED STATES OF AMERICA

vs.

JAMES LEE SPOON,

Defendant

[Filed Dec. 1, 1980]

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government the defendant appeared in person on this date— November 25, 1980

COUNSEL

——— WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

X WITH COUNSEL W. Rhett Eleazer, Esq. (retained)

PLEA

——— GUILTY, and the court being satisfied that there is a factual basis for the plea,

——— NOLO CONTENDERE,

——— NOT GUILTY

FINDING & JUDGMENT

There being a verdict of

——— NOT GUILTY. Defendant is discharged

XX GUILTY. returned 10-2-80, as to Cts. 1-16 of the Indictment

Defendant has been convicted as charged of the offense(s) of violation of Title 18, U.S. Code Sections 371, 1071, 2312, 2313 & 2

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Four (4) Years on each of Counts 1 through 16, said sentences to run concurrently with each other.

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk Deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

Signed by

XX U.S. District Judge

——— U.S. Magistrate

/s/ Charles E. Simons, Jr.
CHARLES E. SIMONS, JR.

A TRUE COPY

Attest:

JOHN W. WILLIAMS
Clerk

By: /s/ Nancy Marchant
Deputy Clerk

Date 12-1-80

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Docket No. 80-153

UNITED STATES OF AMERICA

vs.

BILLIE K. SPOONE,
Defendant

[Filed Dec. 1, 1980]

JUDGMENT AND PROBATION/COMMITMENT ORDER

COUNSEL

In the presence of the attorney for the government the defendant appeared in person on this date— November 25, 1980

——— WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

XX WITH COUNSEL John Hardaway, Asst. Federal Public Defender

PLEA

——— GUILTY, and the court being satisfied that there is a factual basis for the plea,

——— NOLO CONTENDERE,

——— NOT GUILTY

FINDING & JUDGMENT

There being a verdict of

——— NOT GUILTY. Defendant is discharged

XX GUILTY, returned 10-2-80, as to Cts. 1, 4, 7, 9 & 11 of the Indictment

Defendant has been convicted as charged of the offense(s) of violation of Title 18, U.S. Code, Sections 371, 2313 & 2

SENTENCE OR PROBATION ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on each of Counts 1, 4, 7, 9 & 11, to run concurrently, provided that the execution of the institutional sentences is suspended and the defendant placed on probation for a period of Five (5) Years.

SPECIAL CONDITIONS OF PROBATION

1. The defendant is to reside for Three (3) Months at the Killingsworth Home for Women, according to arrangements to be made by the Probation Officer.

IT IS FURTHER ADJUDGED that Counts 2 & 14 of the Indictment are hereby dismissed.

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of

this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk Deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

Signed by

XX U.S. District Judge

——— U.S. Magistrate

/s/ Charles E. Simons, Jr.
CHARLES E. SIMONS, JR.
Date 12-1-80

A TRUE COPY

Attest:

JOHN W. WILLIAMS
Clerk

By: /s/ Nancy Marchant
Deputy Clerk

APPENDIX C

18 U.S.C. § 2312

§ 2312. Transportation of stolen vehicles.

Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same to have been stolen, shall be fined not more than $5,000.00 or imprisoned not more than five years, or both.

18 U.S.C. § 2313

§ 2313. Sale or receipt of stolen vehicles.

Whoever receives, conceals, stores, barters, sells, or disposes of any motor vehicle or aircraft, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing the same to have been stolen, shall be fined not more than $5,000.00 or imprisoned not more than five years, or both.

18 U.S.C. § 1254(1)

§ 1254. Court of appeals; certiorari; appeal; certified questions.

Cases in the courts of appeal may be reviewed by the Supreme Court by the following methods:

1. By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree.